

Exhibit A

Transcript of Julie L. Flynn Deposition

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

PUBLIC INTEREST LEGAL FOUNDATION,)
INC.,)
) Case No.
Plaintiff,) 1:20-cv-00061-GZS
)
vs.)
)
MATTHEW DUNLAP, in his official)
capacity as the Secretary of State)
for the State of Maine,)
)
Defendant.)

DEPOSITION OF JULIE L. FLYNN, taken via Zoom, on
January 29, 2021, commencing at 10:01 A.M., before Lisa S.
Bishop, RPR, RMR, a Notary Public in and for the State of
Maine.

Atkinson-Baker Court Reporters
1-800-288-3376
FILE NO.: AE08959

1 APPEARANCES:

2 For the Plaintiff,
3 NOEL H. JOHNSON, ESQ.
4 KAYLAN L. PHILLIPS, ESQ.
5 Public Interest Legal Foundation, Inc.
6 32 E. Washington Street, Suite 1675
Indianapolis, IN 46204
317-203-5599
njohnson@PublicInterestLegal.org

7 For the Defendant,
8 PHYLLIS GARDINER, ESQ.
9 Assistant Attorney General
10 Office of the Attorney General
11 6 State House Station
Augusta, ME 04333
207-626-8800
phyllis.gardiner@maine.gov

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I N D E X

Deponent: JULIE L. FLYNN

Examination by:	Page
ATTY. JOHNSON	4

EXHIBITS

Number	Description	Page
1	Deposition Topics	8
2	Letter, 10/17/19	12
3	E-mail Exchange	13
4	Letter, 10/29/19	14
5	Letter, 1/29/20	15
6	Letter, 1/30/20	16
7	Letter, 2/3/20	17
8	Letter, 2/5/20	18
9	Title 52 United States Code Section 20507	20
10	Title 21-A Maine Revised Statutes Section 161	23
11	Title 52 United States Code Section 21083	32
12	Central Voter Registration User Guide	34
13	21-A Maine Revised Statutes Section 152	39
14	21-A Maine Revised Statutes Section 129	42
15	21-A Maine Revised Statutes Section 196-A	50
16	E-mail Exchange	56
17	E-mail, 5/15/19	58

(Exhibits Included in Original and Copies.)

1 JULIE L. FLYNN, having been duly sworn by the Notary
2 Public, was examined and testified as follows:

3 EXAMINATION BY ATTY. JOHNSON:

4 Q Good morning again, everyone. My name is Noel
5 Johnson. I'm an attorney representing the plaintiff in
6 this action, Public Interest Legal Foundation. This is the
7 first time I have taken a deposition through Zoom, so while
8 I hope things go as smoothly as possible, we could have
9 some technical difficulties, so I appreciate your patience
10 if something like that arises. I am going to be using some
11 exhibits today and just so everyone can have their own
12 copy, I'm going to use the chat feature to send the
13 exhibits. At the bottom of your screen, if you use your
14 mouse, you should see a chat button. Does everyone see
15 that?

16 A Yes.

17 Q If you click that, it should open up a chat on the
18 right side and I will be able to send each file to you and
19 it will appear where it says chat and it will give you the
20 option to download it and have a copy on your screen.

21 MS. GARDINER: Sorry, I didn't mean to interrupt
22 you. We are both working from laptops which are quite
23 small. We don't have a big screen. We could take a break
24 and see if someone can hook one up for us. I think there
25 is the capability to do that, but it's going to be very

1 difficult to view documents.

2 MR. JOHNSON: I got some feedback there. I am
3 also going to share the exhibits on my screen as I go
4 through them. I don't know if that really solves the issue
5 you are describing, but if there is an issue with viewing
6 the exhibit, let me know if there is something that can't
7 be read.

8 MS. GARDINER: Yeah.

9 THE REPORTER: Can we go off the record?

10 MR. JOHNSON: Sure.

11 (Discussion off the record.)

12 Q Okay. Deputy Secretary Flynn, thank you for your
13 time today. Have you been deposed before?

14 A Yes.

15 Q Okay. How many times have you been deposed?

16 A Probably less than 10 times.

17 Q So that's enough so you probably know how this
18 works, but just for the sake of the record, I'm going to go
19 briefly over some basics. You understand that you are here
20 under oath and you must answer questions fully, completely
21 and truthfully?

22 A Yes.

23 Q And we have a court reporter on the call to record
24 everything you say, so we ask that you use yes or no
25 answers as opposed to shaking your head up and down. Does

1 that make sense?

2 A It does, yes.

3 Q If you do not understand a question or our feed
4 cuts out, you can ask me to repeat or clarify the question.
5 Does that make sense?

6 A Yes.

7 MR. JOHNSON: Is the echo going to be an issue?

8 (Discussion off the record.)

9 Q Okay. Ms. Flynn, do you understand that you are
10 here giving testimony as a representative of the Maine
11 Secretary of State's Office?

12 A Yes, I do.

13 Q Okay. So when I'm asking questions, I may refer
14 to you, but for the vast majority of questions, what I'm
15 asking for is the knowledge and beliefs of the Secretary of
16 State's Office. Does that make sense?

17 A Yes.

18 Q And when I say Secretary of State's Office, I'm
19 also referring to subordinate offices within that office
20 such as your office and others. Does that make sense?

21 A Yes.

22 Q Okay. And I will try to be clear when I'm asking
23 you a question personally. If it's not clear, you can ask
24 me to clarify.

25 A Okay.

1 Q Are you personally familiar with what this case is
2 about?

3 A Yes, I am.

4 Q Can you tell me what you know about this case?

5 A Yep, the client has asked for the voter
6 registration file, what we call a campaign use voter file,
7 which we denied.

8 Q So you do understand that my client is seeking the
9 Party/Campaign Use Voter File?

10 A Yes.

11 Q Can you tell me what the Party/Campaign Use Voter
12 File is?

13 A It's a file of certain voter information that is
14 current as of the date it is produced.

15 Q Is it accurate to say that the Party/Campaign Use
16 Voter File is the official list of eligible voters at the
17 time it is produced?

18 MS. GARDINER: Objection as to form. If the
19 witness understands, fine. I don't understand what you
20 mean by the official voter list.

21 Q Okay. Is it clear what I'm asking?

22 A There's a series of reports that can be produced
23 from the database and that's one report, so I mean the
24 official voter file is what's contained in the database,
25 but the list is what's current as of the date it is

1 produced for that information.

2 Q Okay. And I may at times simply refer to the
3 Party/Campaign Use Voter File as the voter file just
4 because it is sort of long, just so you understand, I'm
5 referring to the same thing.

6 A Yes.

7 Q Besides talking with your counsel, did you
8 personally do anything to prepare for this deposition?

9 A I looked over the answers to the interrogatories
10 and admissions and the list of topics just to refresh
11 myself.

12 Q Did you review any of the case filings?

13 A No.

14 Q And you said you did review documents produced in
15 discovery?

16 A Not the documents. Just the interrogatory answers
17 and list of admissions, our responses.

18 Q I'm going to attempt to introduce the first
19 exhibit, so bear with me here.

20 (Exhibit No. 1, Deposition Topics, marked for
21 identification.)

22 Okay. You should see in the chat on your right a
23 document called Plaintiff's Exhibit 1. Does everyone see
24 that?

25 A Yes.

1 Q I'm also going to try --

2 MS. GARDINER: I see it, but I can't open it.

3 Can you open it, Julie?

4 THE WITNESS: I think I saved it to my laptop.

5 Let me see here.

6 Yes, I'm able to open that on my laptop.

7 Q Okay. And it should also be now shared on your
8 screen. Do you see that?

9 A Yes.

10 Q What I'm marking as Exhibit 1 is the list of
11 deposition topics that was sent to your counsel prior to
12 this deposition and I think you said you reviewed this, but
13 I will ask again, is this something you reviewed prior to
14 this deposition?

15 A Yes, I did.

16 Q And did you talk with anyone other than counsel
17 about these topics on Exhibit 1?

18 A No, I didn't.

19 Q You mentioned the interrogatory responses produced
20 by your client. Did you help prepare responses to those
21 interrogatories?

22 A Yes.

23 Q Do you know -- did anyone else help prepare
24 responses to those interrogatories?

25 A I don't recall getting -- I might have talked with

1 my assistant director or director of elections, but I'm not
2 sure.

3 Q Okay. What is that person's name?

4 A Melissa Packard.

5 Q Were you asked to find any of the documents
6 requested by my client in discovery?

7 A Yes.

8 Q I do want to go over some of your background.
9 What is your official job title?

10 A Deputy Secretary of State for the Bureau of
11 Corporations, Elections and Commissions.

12 Q Okay. And how long have you held that position?

13 A About 22 years. Since 1999.

14 Q Okay. Who was your predecessor in office?

15 A Nancy Kelleher.

16 Q Okay. Could you describe or list some of your job
17 duties as Deputy Secretary of State?

18 A I oversee the policy implementation in all of our
19 areas of the office, so that includes business entity
20 filings, boards and commissions, notaries and various other
21 filing programs as well as elections. I oversee the budget
22 for the bureau, payment -- make sure that invoices are
23 properly documented, signed off on. Just various oversight
24 for the proper functioning of the office.

25 Q And do you oversee anyone in your current

1 position?

2 A The director of elections, Melissa Packard, and
3 the director of corporations, UCC and commissions, Cathy
4 Beaudoin, those are the two directors that report to me.

5 Q Have you held any other positions at the Secretary
6 of State's Office?

7 A Prior to deputy, I was the -- I had a civil
8 service position for four years, director of corporations
9 and elections.

10 Q Okay. Anything before that?

11 A Not with -- not with the Secretary of State, but I
12 did work for the City of Portland for six-and-a-half years
13 culminating in the assistant city clerk position, so part
14 of my job was overseeing elections and voter registration.

15 Q So how many total years have you worked in the
16 Secretary of State's office?

17 A 26 as of the first week of March.

18 Q In your current position, do you have any job
19 duties related to Maine's Central Voter Registration
20 system?

21 A I oversee the policy aspect, making sure that --
22 for Melissa Packard, the election staff are carrying out
23 the state's responsibilities to manage the Central Voter
24 Registration system.

25 Q Are you involved with requests for voter

1 registration data like the one in this case?

2 A If we get a request that the CVR manager is not
3 sure about whether it fits into one of the allowable uses
4 in the law, then she will bring it to the director and to
5 myself for guidance.

6 Q So is the CVR manager, is that the person who
7 handles the requests if they are not brought to your
8 attention?

9 A Yes, I mean something that's clearly within the
10 scope of our statutory list of, you know, who can get data.

11 Q Okay. I want to now go through some of the
12 correspondence between my client and the secretary's
13 office. I am sending you and marking as Exhibit 2 Docket
14 Entry 1-1 which is a copy of a October 17, 2019, letter
15 sent by the Public Interest Legal Foundation to then
16 Secretary Dunlap and it should now be shared on your screen
17 as well.

18 (Exhibit No. 2, Letter, 10/17/19, marked for
19 identification.)

20 Are you able to open that on your end? It is a
21 two-page document, so I just want to make sure you can --

22 A I think if you can -- let me just -- it's a little
23 grainy. I would have to try to see it on the screen.

24 Q I can zoom in a little.

25 A Okay. That's probably good.

1 Q Okay. And if you need me to go to other portions
2 of this exhibit, let me know. My question is did the
3 Secretary's Office receive this letter?

4 A Yes.

5 Q And who is in charge of processing this request?

6 A It was sent over to the bureau to my office and
7 then I would help formulate the response.

8 Q Okay. So you were personally involved in
9 processing this request?

10 A Yes.

11 Q What I'm sending you and marking as Exhibit 3, you
12 should now see that in the chat window.

13 (Exhibit No. 3, E-mail Exchange, marked for
14 identification.)

15 Exhibit 3 is Docket Entry 1-2 which is a copy of
16 an October 17, 2019, letter sent by the -- I'm sorry, which
17 is an e-mail, sorry, let me start over. Exhibit 3 is
18 Docket Entry 1-2 which is an e-mail between Kristen
19 Muszynski and Logan Churchwell dated November 17, 2019, and
20 it should now be shared on your screen. Have you seen
21 these e-mails before?

22 A Is it more than just one page?

23 Q It is not. It is just one page.

24 A Okay. I am aware of those, yes.

25 Q Who is Kristen Muszynski?

1 A She's the communications director for the
2 Department of Secretary of State.

3 Q And Ms. Muszynski writes in the e-mail, quote, our
4 office is in receipt of your letter. You are correct that
5 Maine law prohibits disclosure of the voter registration
6 list to your organization and for your purposes. Do you
7 see that portion of her e-mail?

8 A Yes.

9 Q Okay. Is the voter registration list referenced
10 by Ms. Muszynski in this e-mail the Party/Campaign Use
11 Voter File?

12 A It would be, yes.

13 Q Okay. And after sending this e-mail, did the
14 Secretary's Office provide the voter file to my client?

15 A No.

16 Q What I am sending you and marking as Exhibit 4 is
17 Docket Entry 1-3 which is an October 29, 2019, letter from
18 the Public Interest Legal Foundation to then Secretary
19 Dunlap. It should now be shared on your screen as well.

20 (Exhibit No. 4, Letter, 10/29/19, marked for
21 identification.)

22 A Yes.

23 Q Can you see this okay?

24 A Can you -- can you zoom in a little or size it up?

25 Q Yes.

1 A Yes, that's good.

2 Q Have you seen this letter before?

3 A Yes.

4 Q Did the Secretary's Office receive this letter?

5 A Yes.

6 Q And after receiving this letter, did the
7 Secretary's Office provide the voter file to my client?

8 A No.

9 MS. GARDINER: Again, by voter file, you mean
10 Party/Campaign Use Voter File; is that correct?

11 MR. JOHNSON: Yes, I can try to use the full name
12 just so it's clear, but that is the equivalent.

13 MS. GARDINER: It's fine to use the shorthand as
14 long as we all know what it is.

15 Q I'm sending you and marking as Exhibit 5 Docket
16 Entry 1-4 which is a January 29, 2020, letter from the
17 Public Interest Legal Foundation to then Secretary Dunlap.

18 (Exhibit No. 5, Letter, 1/29/20, marked for
19 identification.)

20 Is it now shared on your screen?

21 A It is.

22 Q Have you seen this letter before? I can zoom in.

23 A If you could zoom, please. Thank you.

24 Yes, I have seen this letter.

25 Q Did the Secretary's Office receive this letter?

1 A Yes.

2 Q And did the Secretary's Office provide the
3 Party/Campaign Use Voter File to my client after receiving
4 this letter?

5 A No.

6 Q I'm sending you and marking as Exhibit 6 Docket
7 Entry 1-5 which is a January 30, 2020, letter from you to
8 the Public Interest Legal Foundation and it should now be
9 shared on your screen. This is more than one page and I
10 can -- have you seen this letter before?

11 (Exhibit No. 6, Letter, 1/30/20, marked for
12 identification.)

13 A Yes, I have.

14 Q Did you draft this letter yourself?

15 A I did.

16 Q And did you --

17 A Yes.

18 Q Go ahead.

19 A With assistance of -- after consultation with
20 counsel.

21 Q Okay. Did you send it onto my client?

22 A Yes.

23 Q I want to direct your attention to the portion of
24 the third paragraph which goes onto page two. It's the
25 sentence that starts with however at the top. Do you see

1 that?

2 A Yes.

3 Q It says, quote, however, state law does not allow
4 us to provide you with an electronic copy of the CVR
5 database or any report in electronic form generated by the
6 CVR other than as described in Section 196-A (1)(D) or (F).
7 So does that sentence mean that Maine state law does not
8 allow the Secretary of State to provide my client with a
9 copy of the Party/Campaign Use Voter File?

10 A That's correct.

11 Q And just for clarity, did the Secretary of State
12 provide the Party/Campaign Use Voter File to my client
13 after sending this letter?

14 A No.

15 Q What I'm sending you and marking as Exhibit 7 is
16 Docket Entry 1-6 which is a February 3, 2020, letter from
17 the Public Interest Legal Foundation to you. And you
18 should see that on your screen now.

19 (Exhibit No. 7, Letter, 2/3/20, marked for
20 identification.)

21 A Yes, that's good.

22 Q Did you receive this letter?

23 A Yes.

24 Q And did the Secretary of State provide the
25 Party/Campaign Use Voter File to my client after receiving

1 this letter?

2 A No.

3 Q Okay. What I am sending you and marking as
4 Exhibit 8 is Docket Entry 1-7 which is a February 5, 2020,
5 letter from you to the Public Interest Legal Foundation.
6 And you should see that on your screen.

7 (Exhibit No. 8, Letter, 2/5/20, marked for
8 identification.)

9 Have you seen this letter before?

10 A Can you just increase the size a little bit,
11 please? Thank you. Yes.

12 Q Okay. And did you personally draft this letter?

13 A Yes.

14 Q Did anyone assist you in drafting this letter?

15 A Discussed with counsel.

16 Q Okay. And you sent this letter to my client,
17 correct?

18 A That's correct.

19 Q And did the Secretary's Office provide my client
20 with a copy of the Party/Campaign Use Voter File after you
21 sent this letter?

22 A No.

23 Q Just to wrap that all up, has the Secretary's
24 Office ever provided my client with a copy of the
25 Party/Campaign Use Voter File?

1 A No.

2 Q Do you know if then Secretary Dunlap reviewed any
3 of the correspondence we just went over?

4 A Yes, that's my practice to have the Secretary look
5 at correspondence before it's sent out.

6 Q Okay. So he would have looked at any letter --
7 any of the letters sent to my client that we just went
8 over?

9 A Yes.

10 Q Okay. Did Secretary Dunlap provide any input
11 about those correspondence or my client?

12 A I don't recall specifically, no.

13 Q Okay. Do you know if he made any suggestions with
14 regard to the language in any of the letters?

15 A I don't remember that, no.

16 Q Is the Secretary of State's Office familiar with
17 the National Voter Registration Act?

18 A Yes.

19 Q And is it true that the Secretary's Office has
20 certain duties and obligations under that act?

21 A Yes.

22 Q And going forward, I will -- I may refer to that
23 as the NVRA. Do you know what I mean by that?

24 A Yes.

25 Q What I am sending you and marking as Exhibit 9 is

1 a copy of Title 52 United States Code Section 20507 which
2 is part of the NVRA. That should now be shared on your
3 screen. It is a six-page exhibit.

4 (Exhibit No. 9, Title 52 United States Code Section
5 20507, marked for identification.)

6 Would you like me to -- my question is going to
7 be have you reviewed this part of the NVRA?

8 A I have.

9 Q Okay.

10 A Not recently, but certainly over my career, I
11 have.

12 Q Okay.

13 MS. GARDINER: Noel, I would -- any document this
14 long, if you are going to ask her questions about it, first
15 of all, I hope they are not for legal conclusions, but I
16 would print this out and provide it to the witness so that
17 she did have it in front of her with all six pages. You
18 can't scroll through and do a decent job of answering
19 questions.

20 MR. JOHNSON: Right, and that's why I wanted her
21 to have a copy on your -- that she can scroll through.

22 MS. GARDINER: Well --

23 MR. JOHNSON: I'm going to ask about one specific
24 section. If it needs to be printed, you can stop and we
25 can do that.

1 Q Does that sound okay?

2 A Sure.

3 Q I'm just going down here to Section(i)(1). Do you
4 see that section? I have it highlighted here.

5 A Yes, I do.

6 Q And it says each state shall maintain for at least
7 two years and shall make available for public inspection
8 and where available photocopying at a reasonable cost all
9 records concerning the implementation of programs and
10 activities conducted for the purpose of ensuring the
11 accuracy and currency of official lists of eligible voters,
12 except to the extent that such records relate to a
13 declination to register to vote or to identify -- or to the
14 identity of a voter registration agency through which any
15 particular voter is registered. Is the Secretary's Office
16 familiar with this provision of the NVRA?

17 A Yes.

18 Q And is the Secretary's Office required to comply
19 with this provision of the NVRA?

20 A Yes.

21 Q And the excerpt in Section (i)(1) that I just read
22 refers to, quote, programs and activities conducted for the
23 purpose of ensuring the accuracy and currency of official
24 lists of eligible voters. Does Maine have programs and
25 activities conducted for the purpose of ensuring the

1 accuracy and currency of official lists of eligible voters?

2 A Yes.

3 Q And do you know what I mean when I say Voter List
4 Maintenance programs and activities?

5 A I know what I think it is.

6 Q Okay.

7 A But I'm not sure what you --

8 Q Okay. Well, what do you understand that to mean?

9 A We have -- our interpretation of NVRA is that we
10 have programs that try to identify people who are deceased
11 and people who have moved from the jurisdiction and --

12 Q I'm going to refer to that sentence, programs and
13 activities conducted for the purpose of ensuring the
14 accuracy and currency of official lists of eligible voters,
15 I may refer to that shorthand as just programs and
16 activities. Just so everyone understands, I'm referring to
17 the entire sentence going forward. What are the sources
18 that explain what Maine's programs and activities are?
19 Does that question make sense?

20 A I'm not sure I know what you are asking.

21 Q Okay. In other words, where would someone look if
22 they wanted to know what Maine's programs and activities to
23 keep the voter lists accurate are?

24 Do Maine election statutes describe some of those
25 programs and activities?

1 A Yes.

2 Q And those are found in Title 21-A of Maine
3 statutes; is that correct?

4 A Yes.

5 Q What I'm sending you and marking as Exhibit 10 is
6 Title 21-A, Maine Revised Statutes, Section 161, which is
7 titled responsibilities of registrar. And you should see
8 that on your screen now.

9 (Exhibit No. 10, Title 21-A Maine Revised Statutes
10 Section 161, marked for identification.)

11 Do you see that?

12 A I do. It could be a little larger.

13 Q Okay. How is that?

14 A Thank you. That's good. Thank you.

15 Q Okay. And this is -- has a second page. Are
16 you -- is the Secretary's Office familiar with this portion
17 of Maine law?

18 A Yes.

19 Q Okay. Section -- Subsection 2A of the statute is
20 titled maintenance of voter registration information. Do
21 you see that?

22 A Yes.

23 Q The first sentence reads the registrar in each
24 municipality shall keep the Central Voter Registration
25 system current at all times for the voters in the

1 registrar's municipality. What does it mean to keep the
2 voter registration records current?

3 A If they receive -- if a town receives a record of
4 death that they determine to be a voter, they cancel the
5 record. If they receive information from the voter or from
6 the Bureau of Motor Vehicles, from another jurisdiction
7 stating that the voter has moved, they -- if it's
8 authorized by the voter or -- then they are able to cancel
9 the record.

10 Q So generally speaking, would it include keeping
11 voter -- voter record information accurate for each voter?

12 A Yes, based on -- they have to have a source
13 document, something that documents the change that's being
14 made.

15 Q Okay.

16 A Or registration application registering a new
17 voter or changing any information on a voter's record.

18 Q Okay. So would it include removing registrants
19 who are no longer eligible to vote?

20 A Yes.

21 Q Would it include adding new registrants to the
22 list of eligible voters?

23 A Yes.

24 Q The second sentence reads the Secretary is
25 authorized to conduct maintenance of the Central Voter

1 Registration system. What does it mean to conduct
2 maintenance of the Central Voter Registration system?

3 A Because the secretary has oversight of the
4 database, that the Secretary now conducts statewide
5 systematic uniform nondiscriminatory methods of looking for
6 records of voters who may not be eligible and conducting
7 those periodic programs to make sure the list is
8 maintained.

9 Q Okay. So does conducting maintenance include
10 keeping the CVR current, is that part of maintenance?

11 A Yes, it's -- it's a periodic program as outlined
12 in the NVRA.

13 Q And you said that the Secretary's Office does
14 conduct maintenance of the CVR?

15 A Yes, we do.

16 Q Who in the Secretary's Office performs the
17 maintenance?

18 A It would be -- sometimes I have participated, but
19 we design the program and it involves mailing of the
20 notices required under NVRA. Staff will prepare and review
21 the file and work with a vendor to print and mail the
22 notices. And when the notices come back, the records --
23 the mailings have the voter record bar code number -- the
24 voter record number bar coded on them so that they can be
25 scanned and either records designated as inactive or

1 canceled depending on the response and what's allowed under
2 NVRA.

3 Q Okay. Does the NVRA describe some of Maine's
4 programs and activities for keeping the voter list accurate
5 and current?

6 A The NVRA specifies the notice that's required
7 called 8(d) -- 8(d)(2) notice.

8 Q Do you consider sending those notices to be a
9 program or activity for keeping the voter list accurate and
10 current?

11 A Yes, I do.

12 Q Going back to Exhibit 10, the third sentence reads
13 the Secretary of State shall adopt rules for conducting
14 Voter List Maintenance required by the National Voter
15 Registration Act of 1993. Do you see that sentence?

16 A Yes.

17 Q Has the Secretary of State's Office adopted those
18 rules?

19 A We did adopt rules, yes.

20 Q Do you know where those rules are found or
21 published?

22 A They would be posted on the Secretary of State's
23 web page under the Administrative Procedure Act link and
24 there's a list of rules by agency.

25 Q Okay. Are those something that are continuously

1 being updated or were they published at some point in time
2 and not changed?

3 A They were published when the NVRA took effect.
4 They were actually published about a month before I started
5 working for the Secretary of State in 1995 originally.
6 They have been amended, but not recently.

7 Q Do you know what the Help America Vote Act is?

8 A Yes.

9 Q The Secretary's Office is familiar with that act?

10 A Yes.

11 Q Does the Help America Vote Act describe some of
12 Maine's programs and activities for keeping the voter list
13 accurate and current?

14 A It has some requirements for -- it actually had
15 the requirement for developing and maintaining a
16 centralized computerized voter registration system and --
17 such as we adopted and fully implemented in May of 2007.

18 Q Does the --

19 MS. GARDINER: Sorry, Noel, if I could just break
20 in with a request for a quick break. I am not able to use
21 my keyboard on my computer for some reason and I think it
22 happened when I moved back to this office. If I could have
23 five minutes to get my -- to find help to solve that
24 problem, that would aid me in looking at the exhibits, et
25 cetera.

1 MR. JOHNSON: Sure, we can go off the record.

2 MS. GARDINER: Thanks.

3 (A short break was taken.)

4 Q Okay. We can go back on the record. Okay. When
5 we last broke, we were talking about Maine's programs and
6 activities to keep the -- for keeping the voter list
7 current and accurate. Does the Secretary of State's Office
8 issue any type of guidance to local registrars about
9 keeping the voter list accurate and current?

10 A Yes, we have a training manual and issue periodic
11 memos for activities or reminders.

12 Q Is any of that information publicly available?

13 A It's not posted, no. It's not posted on the
14 website. It is provided to the municipal election
15 officials in 500 municipalities.

16 Q Can you just give me an example of something that
17 might be included in those types of guidance?

18 A When we are planning to do a statewide list
19 maintenance activity, we will send out a memo just alerting
20 them that we are going to be doing this and they will be
21 seeing certain notices in the system when we make a voter
22 inactive, they will see the results of that when we are
23 doing a statewide maintenance that we conduct.

24 Q And you mentioned system. Did you mean CVR?

25 A Yes, if we are doing -- if we are -- the

1 municipalities will do sort of the day-to-day what I call
2 spot changes, so they may get something from an individual
3 voter or about an individual voter and they will take
4 action based on that, but when we are planning a systemwide
5 meaning statewide activity, we would send a memo and we are
6 going to be doing that this spring, so --

7 Q So far, we went through the Maine election
8 statutes, we went through portions of the NVRA, I mentioned
9 the Help America Vote Act and we just discussed guidance to
10 local registrars. Are there any other sources that would
11 describe or contain Maine's programs and activities for
12 keeping the voter list accurate and current?

13 A I can't think of any.

14 Q Next, I want to talk about the Maine Central Voter
15 Registration system which we have been referring to as the
16 CVR. Is that also known as Election Net or is that
17 something different?

18 A Election Net is the application software, the
19 proprietary software. That's the trade name for that
20 software, but CVR is both the application software and the
21 back-end database that contains the data entered through
22 the software.

23 Q And we have probably covered this, but I will ask,
24 the Secretary of State's office can access and use the CVR,
25 correct?

1 A That's correct.

2 Q Is there any aspect of the CVR that the Secretary
3 of State's Office cannot use?

4 A No.

5 Q Okay.

6 A There are -- it's role based, so depending on your
7 role and your log-in, I mean myself nor any of our staff or
8 anyone in the office, we can't directly do anything to the
9 database. That's controlled by, you know, the network and
10 the database administrator, but we can, you know, look up
11 or produce reports or update information in the system, you
12 know, on a daily basis.

13 Q Okay. So other than sort of the -- what you
14 mentioned that the database administrator is responsible
15 for, in terms of functionality and use, is there any aspect
16 that the Secretary cannot use?

17 A No.

18 Q Do local election officials, municipal officials
19 access and use the CVR?

20 A Yes.

21 Q And what primarily do they use it for?

22 A They are the ones who receive voter registration
23 applications which they use to update or add new voters,
24 update existing voters. If they get spot changes -- they
25 might get an individual notice from a registrar in another

1 jurisdiction out of state that that voter has moved and
2 registered there. They would go in and change the voter
3 status to canceled. They will, you know, take action on,
4 you know, death notices or we have a system match for death
5 records, so they are doing that activity. And the state is
6 handling, you know, the statewide or helping the
7 municipalities, the towns and cities to update records. We
8 still have some small communities that have -- that don't
9 have good enough Internet, so we have an agreement with
10 them to help maintain their records based on documents that
11 they provide us.

12 Q When was the CVR first implemented?

13 A It went on-line fully implemented in May, 2007.

14 Q And prior to May, 2007, was -- what did Maine use
15 to maintain its voter registration records?

16 A We had a -- probably from October, 2006, we had a
17 small pilot with a number of municipalities that were using
18 the Central Voter Registration system live before we were
19 able to get all the towns in. Prior to that, every
20 municipality maintained their own record of voters, so
21 every -- still today, every town keeps the paper copy of a
22 voter registration application and any update -- any
23 documentation for that voter in a card file and then some
24 communities might have had an access database or an
25 off-the-shelf system for, you know, keeping their voter

1 file and some completely manual on paper, they would type
2 up or print up a list, you know, write out a list of voters
3 to use at the elections, so part of implementing this was
4 converting the records -- either data entering them or
5 converting any electronic records into the system so we had
6 one statewide database of the records.

7 Q What I'm sending you and marking as Exhibit 11 is
8 a copy of Title 52 United States Code Section 21083 which
9 is a section of the Help Measuring Vote Act of 2002. And I
10 understand this is a multi-page document. If you need time
11 to look it over, you can.

12 (Exhibit No. 11, Title 52 United States Code Section
13 21083, marked for identification.)

14 Is this a portion of the law that the Secretary's
15 Office is familiar with?

16 A Yes, we had to implement several aspects of the
17 Help America Vote Act, so certainly our -- I don't see it
18 yet, but I mean --

19 Q Okay. Well --

20 A -- I'm familiar with the Help America Vote Act.

21 Q I want to direct your attention to Section
22 (a)(1)(A) which is the first one in this portion of the
23 statute. It starts with except as provided. Do you see
24 where I'm starting there?

25 A I'm not seeing anything. You are not sharing on

1 the screen.

2 Q I'm sorry.

3 MS. GARDINER: Can you put it up on the screen?

4 MR. JOHNSON: Yes, I can. I had forgotten I had
5 not shared that one yet.

6 Q You can now see it. I will make it a little
7 bigger. Sorry. And just to repeat, is this a portion of
8 the law that the Secretary of State's Office is familiar
9 with?

10 A Yes.

11 Q And Section (a)(1)(A) that starts except as
12 provided, and I will read from it, except as provided in
13 Subparagraph B, each state acting through the chief state
14 election official shall implement in a uniform and
15 nondiscriminatory manner a single uniform official
16 centralized interactive computerized statewide voter
17 registration list defined, maintained and administered at
18 the state level that contains the name and registration
19 information of every legally registered voter in the state
20 and assigns a unique identifier to each legally registered
21 voter in the state in this subsection referred to as the
22 computerized list and includes the following. And there's
23 a list of items below that. In the paragraph I just read,
24 was the CVR created to comply with the requirement about
25 the Help America Vote Act I just read?

1 A Yes.

2 Q Does the CVR contain the voter registration record
3 for each registered voter in Maine?

4 A Yes, at the point in time that the information is
5 entered.

6 Q Okay. And does Maine have an official name for a
7 voter registration record stored in the CVR? Some states
8 call them different things.

9 A Just a voter record, I think.

10 Q I just wanted to use the correct terminology going
11 forward. What I'm sending you and marking as Exhibit 12 is
12 the Central Voter Registration User Guide that was produced
13 by defendant in discovery. It's sort of large, so it may
14 take a minute to come through in your chat window. The
15 Bates numbers are SOS 00231 through 675. I will also share
16 this one.

17 (Exhibit No. 12, Central Voter Registration User
18 Guide, marked for identification.)

19 This is a rather large document, but you may be
20 able to tell me based on the first page, are you familiar
21 with this user guide?

22 A Yes.

23 Q And I will represent to you that it is the entire
24 user guide that was provided by defendant in discovery.
25 Have you used this user guide before?

1 A I have one on my shelf at my office. I know how
2 to do the functions that are in there, you know, so I don't
3 have to get into it in order to do something, but this is
4 provided to the municipalities. It's a step-by-step set of
5 activities that they can -- what they have to do to do
6 certain activities.

7 Q I'm going to turn to page six of Chapter 8 which
8 is Bates number S0S470 and page 240 of the PDF if anyone is
9 following along. I realize this may be a little tough to
10 see and I will zoom in as much as I can. I want to direct
11 your attention to figure four on the screen. Do you see
12 that here?

13 A Yes, uh-huh.

14 Q Can you tell me what figure four is showing?

15 A When we want information on a particular voter
16 record, you do a search and you get what's called an
17 inquiry and you get a -- you are able to pull up the voter
18 screen and view it for a particular voter which has the
19 basic information about the voter's record.

20 Q Okay. So this would be an example of a voter
21 record that is contained in the CVR?

22 A Yes.

23 Q Okay. And I'm going to name some voter
24 information and I want you to tell me yes or no whether
25 that information is maintained in each voter's registration

1 record in the CVR. Does that make sense?

2 A I think so.

3 Q Okay. So is the voter's name maintained in each
4 registration record in the CVR?

5 A Yes.

6 Q Is the voter's residential address maintained?

7 A Yes.

8 Q Is the voter's mailing address maintained?

9 A If there is one.

10 Q Is the voter's year of birth maintained?

11 A The complete date of birth is maintained in the
12 record.

13 Q And is the voter's enrollment status maintained?

14 A Yes.

15 Q What does enrollment status mean?

16 A Whether they are enrolled in a party, one of the
17 qualified political parties or whether they are designated
18 as what we call unenrolled, they are not enrolled in a
19 party that is qualified or is qualifying.

20 Q Is the voter's electoral district maintained in
21 each voter's record in the CVR?

22 A Yes.

23 Q Is the voter's status maintained in each record?

24 A Yes.

25 Q And what does voter status mean?

1 A The status of their record, so records are either
2 active, they may be inactive as a result of the Voter List
3 Maintenance mailing, canceled after a voter is determined
4 to be ineligible, and there are several pending statuses
5 before a voter record is -- becomes active.

6 Q Is the voter's date of registration maintained in
7 each record?

8 A Yes.

9 Q Is the date that voter record information was
10 changed or updated maintained in each record?

11 A Yes, and I will say not all of it would be
12 viewable on the screen. Some of it is history information
13 or --

14 Q Okay.

15 A But it is maintained in the database, absolutely.

16 Q And is the voter's participation history
17 maintained in each record?

18 A Yes.

19 Q And is the voter's record number maintained in
20 each record?

21 A Yes.

22 Q Is a voter record number like a unique ID number
23 assigned to each voter?

24 A There are -- voter record number is a sequential
25 system number that is assigned to a record when it is

1 created in CVR. That is different from the unique
2 identifier uniquely identifying record number that's
3 referenced in the Help America Vote Act and that is either
4 the Maine driver license or state ID number if it was
5 provided or the last four digits of the social security
6 number if that was provided or a system assigned unique
7 identifier if one of those records -- those other
8 identifiers were not provided.

9 Q And each voter's record in the CVR, is there an
10 indication if applicable that the voter is a uniformed
11 service member and overseas voter?

12 A Yes, there's a special designator section.

13 Q Okay. I think you said that all the voter record
14 information we just went over would either be contained in
15 what we are seeing as figure four or accessible through --
16 like in this figure four?

17 A This is a display screen that the application uses
18 to display to somebody making an inquiry, but the data is
19 contained in the database and the database has -- it's a
20 complex database that has hundreds of tables and address
21 information may be stored in different tables to be used
22 for voter registration purposes, for absentee voting
23 purposes, so I mean there's -- all of the data goes into
24 tables in the database and is able to be produced if it's,
25 you know, either on a publicly available report if the law

1 allows it or on an internal report that is used for
2 proofreading or, you know, internal activities.

3 Q Okay. Is the database you are referring to
4 maintained in the CVR?

5 A Yes, that's -- CVR really has -- we are talking
6 about a system that has two components. It has an
7 application that 500 municipalities and the state uses to,
8 you know, maintain records and then the database has -- you
9 know, I'm not an IT person, but the database has tables --
10 made up of tables where data is stored and then relates to
11 each other in order to produce reports or to show this
12 inquiry screen.

13 Q Is the CVR used to create new voter registration
14 records for people who are not registered to vote?

15 A Yes.

16 Q Okay. I am sending you and marking as Exhibit 13
17 a copy of 21-A Maine Revised Statute Section 152. It
18 should now be shared with you as well. It's a two-page
19 document.

20 (Exhibit No. 13, 21-A Maine Revised Statutes Section
21 152, marked for identification.)

22 Are you familiar with this portion of Maine
23 statutes?

24 A Yes.

25 Q Subsection 2 on page two is called entry into

1 Central Voter Registration system. Do you see that?

2 A Yes.

3 Q Okay. And it says, quote, upon receipt of the
4 application by the Registrar of Voters, the applicant's
5 name and other information from the voter registration
6 application must be entered into the Central Voter
7 Registration system as expeditiously as possible. So that
8 means that when a registrar receives an application for
9 voter registration, they are required by Maine law to enter
10 that applicant's information into the CVR, correct?

11 A That's correct.

12 Q And did the voter registrars comply with that
13 requirement?

14 MS. GARDINER: Objection.

15 A We have a -- we have a voter file with over a
16 million records, so yes, I believe they are complying with
17 that.

18 Q What does -- where does the applicant's
19 information go once it is entered?

20 A It is saved in the tables, various tables in the
21 database, so there's a table that contains the name
22 information, there's a table that contains the voting
23 address, physical residence address information, there's a
24 table for mailing address, there's tables for, you know,
25 party enrollment, history tables.

1 Q So it goes --

2 A It goes into the database, yes.

3 Q And so the entries into the tables in the
4 database, that essentially creates a new voter registration
5 record once it is entered into the database?

6 A Yes.

7 Q How do the registrars or I should say how is the
8 applicant's information verified as correct at the time it
9 is entered into the CVR database?

10 MS. GARDINER: Objection.

11 Q Is the applicant's information checked against a
12 Motor Vehicle database?

13 A No, not at that -- not at that point, no.

14 Q Is it checked against the Motor Vehicle database
15 at some point?

16 A When a new voter registers who has provided a
17 Maine driver license or state ID number, then they enter
18 that and verify that in the system, but an existing voter
19 has already had that information verified. It's not done
20 again.

21 Q Right, I'm referring to just new voter
22 registration records.

23 A If they provide a Maine driver license or state ID
24 number, that is verified against records at the motor
25 vehicle to make sure it matches the voter. If they are

1 provided last four digits of a social security number,
2 that's not a real-time match. It is sent out to the Social
3 Security Administration on a weekly basis and matched
4 against SSA and comes back with a code to say whether it's
5 matched or if it's not matched.

6 Q And SSA is Social Security Administration?

7 A Social Security Administration, yes.

8 Q Is the CVR used to make changes or updates to
9 voter record information for people who are already
10 registered to vote?

11 A Yes.

12 Q So if someone submits a voter registration
13 application with say a change of name or address, the
14 registrar would use the CVR application to make those
15 changes or updates?

16 A That's correct.

17 Q I'm sending you and marking as Exhibit 14 a copy
18 of 21-A Maine Revised Statutes Section 129. It should be
19 on your screen. This is a single page statute.

20 (Exhibit No. 14, 21-A Maine Revised Statutes Section
21 129, marked for identification.)

22 Is the Secretary's Office familiar with this
23 portion of Maine statutes?

24 A Yes.

25 Q The very first paragraph reads, quote, when a

1 voter's name is changed by marriage or other process of law
2 or when the voter moves within a municipality, the
3 following provisions apply. Do you see that?

4 A Yes.

5 Q And Subsection 1 is titled notice and it says the
6 voter must give written notice to the registrar of the
7 voter's new and former names or addresses before the close
8 of registrations prior to election day. Do you see that?

9 A Yes.

10 Q And Subsection 2 is titled correction of name or
11 address and it says the registrar shall correct the voter's
12 name or address in the Central Voter Registration system
13 and on the incoming voting list and the voter must then
14 vote under the voter's new name or in the new district on
15 election day. Do you see that?

16 A Yes.

17 Q Based on what I read, is it correct to say that
18 when a voter notifies a registrar of a change of name or
19 address, that Maine law requires the registrar to update
20 that information in the CVR?

21 A Yes.

22 Q Is the CVR used to make changes to voter record
23 information other than name and address?

24 A Yes, they may have to correct a date of birth if
25 they are made aware that there is a data entry error or --

1 I'm trying to think. Sometimes people add something to
2 their address, they didn't list, you know, a unit number,
3 apartment number, they have added that, change of party
4 affiliation.

5 Q So when changes are made by a voter, whatever the
6 information might be, the CVR is used to make -- to make
7 the update to that information?

8 A Yes.

9 Q Is the CVR used to cancel a voter registration
10 record?

11 A Yes.

12 Q And I'm going to go back to Exhibit 10 which I
13 already sent, but I will share it again on my screen. This
14 was a copy of Title 21-A Maine Revised Statutes Section
15 161.

16 A Uh-huh.

17 Q And now I want to direct your attention to the
18 last sentence of Section 2A. Here, it says a voter's
19 registration record in the Central Voter Registration
20 system must be canceled by either the registrar for the
21 voter's municipality or by the Secretary of State as
22 follows. And Subsection A below that reads when it is
23 determined that a voter has registered to vote in another
24 jurisdiction in the state, the voter registration record
25 from the former jurisdiction must be canceled, and

1 Subsection B says when it is determined that the voter has
2 registered to vote in another jurisdiction outside of the
3 state, the voter registration record in the state must be
4 canceled. So based on what I just read, is it correct to
5 say that Maine law requires cancelation of a registration
6 record in the two instances described in Subsection A and
7 B?

8 A Yes.

9 Q And in those two circumstances, is the CVR used to
10 cancel the voter registration records?

11 A Yes.

12 Q We talked a little bit about this before, but are
13 there other situations or circumstances that require a
14 voter registration record to be canceled by law?

15 A When the municipality gets a record of death and
16 they determine it's for their voter. We also have a
17 automated system connected to the State Department of Vital
18 Records that provides -- monthly provides death information
19 for the towns that's matched to CVR as potential records to
20 be canceled and they have to review those.

21 Q So one circumstance where a voter registration
22 record would be canceled is when the registrant dies,
23 correct?

24 A When the voter dies.

25 Q Right, registered voter?

1 A Yes.

2 Q I use those interchangeably.

3 How does Maine determine or a municipal official
4 determine that an individual registered voter is deceased?

5 A Each town maintains a record of death for their
6 residents. Those are provided. It used to be in paper
7 form, but now it's electronically from the department or
8 the Office of Vital Statistics in Maine, Office of Vital
9 Records, so they are looking at the information on that
10 record and looking at the voter file to determine if they
11 have a voter that they believe matches that death record.
12 They can use an obituary, something they may be looking at.
13 They may not get an official death record because they died
14 somewhere else, but the obituary has information that
15 matches what's in the voter file.

16 And we now have a new law passed by the
17 legislature last year that -- we haven't created the form
18 yet, but there is going to be a family member notification
19 of death that an immediate family member of a voter can
20 fill out and sign and submit to the town that will give
21 them information necessary to cancel the voter's record.
22 Those are sort of the spot changes that happen. And the
23 matching process in the CVR happens monthly where they are
24 presented with a list of names that have matched --
25 possibly matched a death record and they make that

1 determination that a voter is deceased and they will cancel
2 the record.

3 Q In that instance you just described, is the
4 purportedly deceased voter sent a notice or a letter of
5 some kind prior to cancelation?

6 A No.

7 Q Is the CVR used to cancel a registration of
8 somebody who is deceased --

9 A Yes.

10 Q -- in all instances?

11 Is a voter registration record canceled if the
12 voter is in inactive status and fails to vote for two
13 general elections?

14 A Yes.

15 Q And is the CVR used to cancel the registration
16 record in that instance?

17 A Yes, the state initiates a batch process, so once
18 we finish or we are sure that the voter participation
19 history has been entered for the November 3rd, 2020
20 election, we will initiate the batch process to run and it
21 will look at whether someone who was inactive status voted
22 in November, 2020, or November, 2018, and if they did not,
23 it will cancel the record overnight and the municipality
24 will get a reminder notice. It will do the work for them,
25 but it sends them a notice so that they can -- there's a

1 corresponding card file for every voter, so they would mark
2 the record as canceled and date and that has to be retained
3 two years, the paper document documentation in the file for
4 the voter.

5 Q Is a voter registration record canceled when the
6 registrant is or the voter is declared mentally
7 incompetent?

8 A No.

9 Q Is the voter registration record canceled when the
10 voter submits a request that his or her registration be
11 canceled?

12 A Yes, as long as it is signed by the voter.

13 Q And is the CVR used to cancel the registration
14 record in that instance?

15 A Yes.

16 Q And when a registration record is canceled, is the
17 record deleted from the CVR database?

18 A No.

19 Q So what happens when the registration record is
20 canceled, what happens to the information in the database?

21 A The status is changed in the record, it is
22 designated as canceled, so canceled records are not -- you
23 know, are not -- they are still viewable in the system. If
24 it's canceled for reasons that the voter is deceased, the
25 towns can't reactivate that record, they have to go through

1 the state and we make a determination if the -- if there
2 was an error. If a record is canceled as being a duplicate
3 record, again, that's not something that the towns can
4 reactivate because we have determined there are two records
5 out there and we have canceled one, but they still remain
6 in the database.

7 Q So if you were to search for that person using a
8 CVR application, it would -- you would be able to still
9 view their registration information?

10 A That's right, at least at the state level. There
11 are some instances where it wouldn't be at the local level,
12 but --

13 Q Does the CVR contain voter participation history
14 for each -- each voter?

15 A Yes, whatever the town has either scanned or
16 entered as -- entered the absentee voters that are
17 accepted, that goes into the voter history and the voters
18 who vote on election day, the voting list bar codes are
19 scanned for those voters who voted in person.

20 Q And is the CVR used to maintain voter
21 participation history?

22 A Yes, that's maintained as -- it's a table in the
23 voter's record.

24 Q Okay. So you would use that table to add, update
25 or delete participation history?

1 A It goes in and gets saved in the table, yeah.
2 They are not -- they have an entry screen in the
3 application and that puts the data in those tables.

4 Q In the tables in the CVR database?

5 A Yes.

6 Q Is it accurate to say that the CVR is used to
7 carry out Maine programs and activities to keep the voter
8 list current and accurate?

9 A Yes.

10 Q We mentioned this a little before, but can the CVR
11 generate various reports?

12 A Yes.

13 Q And one such report is the Party/Campaign Use
14 Voter File, correct?

15 A That's correct.

16 Q I'm sending you and marking as Exhibit 15 a copy
17 of 21-A Maine Revised Statutes Section 196-A. And it
18 should now be shared on your screen.

19 (Exhibit No. 15, 21-A Maine Revised Statutes Section
20 196-A, marked for identification.)

21 Is the Secretary's Office familiar with this
22 section of Maine law?

23 A Yes.

24 Q It is -- I will show you -- it is four pages. I
25 would like to direct your attention to Subsection B, 1B.

1 It is a little long, but you may have read this before. Is
2 Subsection 1B describing the Party/Campaign Use Voter File?

3 A Yes.

4 Q And Subsection B provides the people and entities
5 who may purchase and receive the Party/Campaign Use Voter
6 File, correct?

7 A Yes.

8 Q And according to Subsection 1B, it says a
9 political party or an individual or organization engaged in
10 so-called Get Out The Vote efforts directly related to a
11 campaign or other activities directly related to a campaign
12 or an individual who has been elected or appointed to and
13 is currently serving in a municipal county, state or
14 federal office, so is it correct if you were not one of
15 those people or entities, you cannot receive a
16 Party/Campaign Use Voter File?

17 A That's correct.

18 Q And skipping ahead in the statute where it starts
19 any person down here, do you see that?

20 A Yes.

21 Q It says any person obtaining either directly or
22 indirectly information from the Central Voter Registration
23 system under this paragraph may not sell, distribute or use
24 the data for any purpose that is not directly related to
25 activities of a political party, Get Out The Vote efforts

1 directly related to a campaign or other activities directly
2 related to a campaign. Is it correct that other than what
3 I just read from the statute, that all other uses of the
4 Party/Campaign Use File are prohibited?

5 A Yes.

6 MS. GARDINER: Objection to the extent it calls
7 for a legal conclusion.

8 Q And the CVR is used to generate the Party/Campaign
9 Use File -- sorry -- the Party/Campaign Use Voter File,
10 correct?

11 A Yes.

12 Q And the Party/Campaign Use Voter File contains
13 certain voter record information of each person, correct?

14 A That's correct.

15 Q It will show you each registered voter's name,
16 address, et cetera?

17 A Yes.

18 Q I'm going to read from Subsection B just once
19 again, the second sentence, it says the Secretary of State
20 or the registrar shall make available the following voter
21 record information subject to the fees set forth in
22 Subsection 2, the voter's name, residence address, mailing
23 address, year of birth, enrollment status, electoral
24 districts, voter status, date of registration, date of
25 change of the voter record, if applicable, voter

1 participation history, voter record number, and any special
2 designations indicating uniformed service voters, overseas
3 voters or township voters, so it's correct that the
4 Party/Campaign Use Voter File contains all the voter
5 information I just read, correct?

6 A Yes.

7 Q Do you know the source of each of those pieces of
8 voter record information contained in the Party/Campaign
9 Use Voter File?

10 A I don't understand your question.

11 Q Is each of the pieces of voter record information
12 that I just read in the statute, is the source of that
13 information the CVR database?

14 A Yes, it's generated from the CVR database, from
15 the information that's stored in the database for each
16 voter.

17 Q For example, when you use the CVR to generate the
18 Party/Campaign Use Voter File, the CVR would pull the
19 voter's name, for example, from the CVR database and use
20 that to populate the voter name field on the Party/Campaign
21 Use Voter File?

22 A Yes, it goes out to the various tables tied to
23 that voter's record number and pulls all that information
24 into the electronic report that's generated, electronic
25 file.

1 Q And that electronic file is the Party/Campaign Use
2 Voter File?

3 A Yes, it's what's called a pipe delineated file.
4 Each field of data has a pipe character that separates it
5 and -- to the extent that information is available for each
6 voter, so only township voters would have a designator in
7 the field, everybody else would not have that, but -- so
8 each record that has the data, it will get pulled into the
9 file, Party/Campaign Use Voter File.

10 Q And this -- you said the voter record information
11 that appears in this portion of the statute is -- all of
12 that information comes from the CVR database, correct?

13 A That's right.

14 Q Would it be accurate to say that the
15 Party/Campaign Use Voter File is a compilation of
16 individual voter registration records contained in the CVR?

17 MS. GARDINER: Objection. Form.

18 A A report is simply a query of all the data, so
19 it's pulling the data that's available. It's designed to
20 pull the data that is required by law and put it into a
21 report.

22 Q I want to run through sort of a quick hypothetical
23 example. Let's say that today, you used the CVR to
24 generate the Party/Campaign Use Voter File and you look at
25 that file -- the voter file and the first person on the

1 list is Jane Doe and the voter file says that Jane Doe is
2 registered at 1234 Main Street. Do you follow me so far?

3 A I guess. We will see.

4 Q If I'm not making sense, I will back up. And a
5 week later, Jane Doe gets married and she decides to
6 legally change her name -- her last name and move into her
7 husband's house, so then Jane Doe then submits a voter
8 registration application under her new last name of Smith
9 and using her new address of 1234 State Street. Does that
10 make sense so far?

11 A Yes, I'm sorry, yes.

12 Q The CVR would be used to update Jane's
13 registration record to reflect her new last name and her
14 new address, correct?

15 A Yes.

16 Q After those updates are made and take effect in
17 the CVR, you again use the CVR to generate a new copy of
18 the Party/Campaign Use Voter File. Would the new copy of
19 the Party/Campaign Use Voter File that you just generated
20 now list Jane's new last name and address?

21 A That's correct.

22 Q It would reflect the changes she made on her voter
23 registration application, correct?

24 A Yes.

25 Q So is it correct to say that when changes and

1 updates are made to an individual voter registration record
2 like with Jane Doe, that those updates are then reflected
3 on the Party/Campaign Use Voter File the next time it is
4 generated?

5 A The Party/Campaign Use Voter File will reflect the
6 current data for each voter on the date that the applica --
7 that the file is generated, so it would show under the new
8 name and the new address.

9 Q And I just have a few more exhibits and a couple
10 questions for each. What I'm sending and marking as
11 Exhibit 16 is a document produced in discovery by the
12 defendant. It is Bates number SOS 00162. These are
13 e-mails between you and Kristen Muszynski dated January 17,
14 2018.

15 (Exhibit No. 16, E-mail Exchange, marked for
16 identification.)

17 MS. GARDINER: Can you repeat the -- could you
18 repeat the Bates number, please?

19 MR. JOHNSON: SOS 00162.

20 Q Are you familiar with these e-mails? You can take
21 a moment to look them over.

22 A Yes.

23 Q What do these e-mails concern?

24 A We get -- Kristen Muszynski, the communications
25 director, will handle any Freedom of Access requests that

1 we may get, so it appears that Reuters -- someone
2 representing Reuters had contacted her about whether groups
3 such as Public Interest Legal Foundation had contacted
4 towns or the state. We -- you know, if a town would call
5 us and say we got a Freedom of Access request, we would
6 make sure they know how to respond to it, but we don't keep
7 a record of towns that may call us about a particular
8 entity that's contacted them. That's what I was conveying
9 there.

10 Q So this concerns an inquiry by someone from
11 Reuters asking about a public records request from the
12 Public Interest Legal Foundation?

13 A That they thought had been made to the state or
14 towns in the state.

15 Q In the second e-mail, it says now she's wondering
16 which towns. Do you know who she is?

17 A I think the person from Reuters that made the
18 request.

19 Q Do you know her name?

20 A No.

21 Q And both of these e-mails refer to MMA?

22 A Uh-huh.

23 Q What's MMA?

24 A That's Maine Municipal Association. It's a
25 private association that provides services to its members

1 who may be municipal clerks or, you know, other municipal
2 officials.

3 Q Do you know the subject matter of the public
4 records request discussed here?

5 A I think it could have been about NVRA activities.
6 I don't honestly recall.

7 THE REPORTER: About what?

8 THE WITNESS: About NVRA list maintenance
9 activities, but I'm not positive. I have a vague
10 recollection of that.

11 Q What I'm sending and marking as Exhibit 17 is a
12 document produced in discovery by defendant. The Bates
13 number is SOS 00164.

14 (Exhibit No. 17, E-mail, 5/15/19, marked for
15 identification.)

16 This is an e-mail from Amy Cohen, the executive
17 director of the National Association of State Election
18 Directors, to Melissa Packard dated May 15, 2019. Have you
19 seen this e-mail before?

20 A Yes, I probably also got that e-mail. Both
21 Melissa and I are members of the National Association of
22 State Election Directors.

23 Q And Melissa Packard is the director of elections,
24 correct?

25 A Correct.

1 Q And this e-mail includes a survey request from the
2 director of elections in Alaska regarding a notice letter
3 sent by the Public Interest Legal Foundation. Can you tell
4 me what the survey was about?

5 A I do not recall. I mean we get these -- they are
6 like a survey monkey and you go out and answer the
7 questions that they are asking and it gets sent to the
8 state that's asking, so it's a way that we ask about
9 different activities that are going on. It might be about
10 different state laws or different activities, so --

11 Q Did anyone in the Secretary's Office take the
12 survey -- this survey?

13 A I don't know. I don't remember doing this
14 particular one and I don't know if Melissa did or not.
15 Some of this is -- you know, depends on the time of year
16 and if we have time, whatever else we are doing. It may
17 have been if we had not been contacted, we would have just
18 answered, you know, no, Maine hasn't received this.

19 MR. JOHNSON: If we could just go off record and
20 take a quick few-minute break, I'm going to just confer
21 with my co-counsel and we may have a few more questions or
22 we may be ready to wrap up. Is that okay?

23 THE WITNESS: Sure.

24 (A short break was taken.)

25 MR. JOHNSON: I do not have any further

1 questions. So, Phyllis, if you have any, feel free.

2 Otherwise, we are prepared to wrap up.

3 MS. GARDINER: No, I don't think I have any
4 questions.

5 MR. JOHNSON: Off the record then.

6 (Time noted: 12:19 P.M.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

I, Lisa S. Bishop, RPR, RMR, a Notary Public in and for the State of Maine, hereby certify that the within-named deponent was sworn to testify the truth, the whole truth, and nothing but the truth, in the aforementioned cause of action.

I further certify that this deposition was stenographically reported by me and later reduced to print through Computer-Aided Transcription, and the foregoing is a full and true record of the testimony given by the deponent.

I further certify that I am a disinterested person in the event or outcome of the above-named cause of action.

IN WITNESS WHEREOF, I subscribe my hand
this 2nd day of February, 2021.



Lisa S. Bishop, RPR, RMR, Notary Public

My Commission Expires: January 27, 2023

DEPONENT SIGNATURE PAGE

Caption: Public Interest Legal Foundation v. Matthew Dunlap

Deponent: Julie L. Flynn

I _____, acknowledge that I have read
pages ____ through ____ inclusive of the transcript of my
deposition taken on January 29, 2021.

I further acknowledge that:

(check appropriate language)

_____ the same is a true, correct, and complete
transcription of the answers given by me to the questions
recorded therein. OR

_____ except for the changes noted on the attached errata
sheet, the same is a true, correct, and complete
transcription of the answers given by me to the questions
recorded therein.

Deponent

Subscribed and sworn to before me
this ____ day of _____, 2021.

Notary Public _____